

HOUSE FINANCE COMMITTEE

April 14, 2015

1:31 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:31 p.m.

MEMBERS PRESENT

Representative Steve Thompson, Co-Chair  
Representative Dan Saddler, Vice-Chair  
Representative Bryce Edgmon  
Representative Les Gara  
Representative Lynn Gattis  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Cathy Munoz  
Representative Lance Pruitt  
Representative Tammie Wilson

MEMBERS ABSENT

Representative Mark Neuman, Co-Chair

ALSO PRESENT

Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Sana Efird, Assistant Commissioner, Department of Health and Social Services; Ron Kreher, Acting Director, Division of Public Assistance, Department of Health and Social Services.

PRESENT VIA TELECONFERENCE

Robert Boyle, Superintendent, Ketchikan School District, Ketchikan; Robin Gray, Superintendent, Yakutat School District, Yakutat; Margaret Griffith, School Counselor, Kenai; Erin Neisinger, Self, Kenai; Ladawn Druce, School Counselor, Kenai; Patrick Mayer, Superintendent, Wrangell School District, Wrangell; Stan Vanamburg, Noatak Schools, Noatak; Deena Paramo, Superintendent, Mat-Su Borough School District, Palmer; Duane Mayes, Director, Senior Benefits Services, Department of Health and Social Services;

Margaret Brodie, Director, Healthcare Services, Department of Health and Social Services.

SUMMARY

HB 80 REPEAL COLLEGE/CAREER READINESS ASSESS.

HB 80 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (EED).

DISCUSSION: STATE OF ALASKA SINGLE AUDIT, RECOMMENDATIONS FOR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

#hb80

HOUSE BILL NO. 80

"An Act repealing the requirement for secondary students to take college and career readiness assessments."

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REPRESENTATIVE LYNN GATTIS, SPONSOR, provided a summary of the legislation. She summarized that HB 80 repealed the mandate for student college and career readiness assessments: ACT, SAT, or Work Keys exams in order to receive a high school diploma. She highlighted that the repealer restored \$525 thousand in funding that could be better spent by the Department of Education and Early Development (DEED). The assessments were an "unfunded mandate" that diverted the school district's time. A passing grade was not required so was not a conclusive measure of student readiness. She hoped that the "true identifier" of readiness was successful completion of the curriculum the school had chosen. She relayed that the mandate was adopted in HB 78 (EDUCATION) [Enacted 5/13/2014] during the last legislative session. She asked for the committee's support.

Co-Chair Thompson OPENED public testimony.

ROBERT BOYLE, SUPERINTENDENT, KETCHIKAN SCHOOL DISTRICT, KETCHIKAN (via teleconference), spoke in support of the assessment testing. He maintained that the tests were "a positive and constructive concept." He elaborated that the testing offered to juniors and seniors was beneficial. The

district required career readiness tests at the junior level and administered the ACT/SAT tests to the college bound students as an avenue to obtain scholarships. He added that the district gained a "solid database of student performance" as a result of requiring all juniors to take the Work Keys assessment. He urged the committee to keep the program intact.

ROBIN GRAY, SUPERINTENDENT, YAKUTAT SCHOOL DISTRICT, YAKUTAT (via teleconference), testified in support of the legislation. She relayed that the requirement was an unfunded mandate and had an onerous impact on rural schools. The staff hours it took to administer the test was burdensome and affected instruction time. She felt that the tests had value but rural schools lacked adequate funding to implement the mandate.

MARGARET GRIFFITH, SCHOOL COUNSELOR, KENAI (via teleconference), testified in favor of the legislation. She relayed that she administered approximately 15 tests during the year; the tests were time consuming and took away from instructional time, counseling services, crisis response, career and future planning, etc. She was supportive of SAT/ACT and Work Keys testing provided by the community and encouraged all of the students to participate. She reported that waivers were available for students who could not afford the testing. The district also supported students with disabilities to take the ACT/SAT tests.

Representative Guttenberg asked whether Ms. Griffith represented the school district.

Ms. Griffith replied that she was testifying on behalf of herself.

ERIN NEISINGER, SELF, KENAI (via teleconference), testified in support of the legislation. She agreed with the previous testimony. She shared that she was a school counselor. She communicated that school counselors were often the school's test coordinators. She referenced a survey administered in the Kenai Peninsula Borough School District by a counselor named Sara Moore [submitted as a letter] (copy on file) that concluded that the level of direct and indirect services counselors were able to provide to their students was impacted due to the overabundance of testing. She read the following from the document:

We found a significant difference between those school counselors who also are designated as their building test coordinator and those who are not. A few results of note:

100% of non-test coordinator counselors frequently or routinely counsel students regarding academic issues; only 25% of test coordinator counselors are able to do so at the same level.

While 40% of non-test coordinator counselors routinely counsel with students regarding personal and family concerns; only 13% of test coordinator counselors do so on a routine basis.

60% of non-test coordinator counselors occasionally / frequently or routinely conduct classroom lessons addressing career development and the world of work; compared to 38% of test coordinator counselors.

And lastly, 80% of non-test coordinator counselors frequently consult with school staff concerning student behavior; compared to 13% of test coordinator counselors.

Ms. Neisinger valued the importance of SAT/ACT and Work Keys testing but she felt that administering the additional tests "put a strain on school counselors."

LADAWN DRUCE, SCHOOL COUNSELOR, KENAI (via teleconference), spoke in favor of HB 80. She reported that school counselors followed the American School Counseling Association (ASCA) national model. She shared some information from the associations "ASCA Mindsets & Behaviors for Student Success: K-12 College- and Career-Readiness Standards for Every Student". She informed the committee that counselors utilized the standards as a guide to help prepare the students for college and career readiness. She listed six standards that encouraged the following mindsets for all students:

Belief in development of whole self, including a healthy balance of mental, social/emotional and physical well-being.

Self-confidence in ability to succeed.

Sense of belonging in the school environment.

Understanding that postsecondary education and life-long learning are necessary for long-term career success.

Belief in using abilities to their fullest to achieve high-quality results and outcomes.

Positive attitude toward work and learning.

Ms. Druce observed that the newly established College and Career Readiness (CCR) tests took time away from the students learning and the counselors' time for what they deemed were appropriate college and career readiness skills.

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PATRICK MAYER, SUPERINTENDENT, WRANGELL SCHOOL DISTRICT, WRANGELL (via teleconference), spoke in support of the legislation. He detailed that the district had a great program for preparing students for postsecondary education in place. He felt that college bound students took the ACT/SAT tests regardless of the mandate. He favored assessments that determined how students measured in terms of academic growth.

STAN VANAMBURG, NOATAK SCHOOLS, NOATAK (via teleconference), spoke in support of HB 80. He concurred with previous testimony that the tests detracted from instructional time. However, he believed that the SAT/ACT and Work Keys testing was important especially in rural areas where access to testing centers was limited. He emphasized that the state needed to support students' access to the tests. He discerned that the assessments helped prepare students "for post high school training and jobs" and offered "accountability" for the schools in the areas of career readiness. He concluded that although he supported the legislation he wanted to ensure students still maintained access to the tests.

Co-Chair Thompson CLOSED public testimony.

Representative Munoz wondered how students would gain access to a preparatory course if the tests were eliminated.

Representative Gattis replied that rural communities were interested in the issue. She read from a document [included

in members files] titled; "Becoming an SAT test center is easy" (copy on file) by the College Board:

Becoming an SAT test center is easy.

The two most important requirements for a test center are proper facilities, and a professional who is qualified and willing to serve as the test center supervisor. The SAT Program will provide all the necessary training, testing material and support needed to administer the SAT.

Representative Gattis shared that becoming an SAT test center was possible in rural communities.

Representative Guttenberg understood the concerns. He wondered how a school would know what it's student's proficiency were since the test were paid for and administered privately and the school was not aware of the scores. He deduced that there was no way of assessing student's proficiency across the state without knowledge of the scores. He wondered how to rate education across the state.

Representative Gattis agreed that when a student paid for the SAT/ACT test only they had access to the scores. She relayed that the state administered the Alaska Measures of Progress (AMP) standardized tests and scores were shared across districts and linked with districts in the Lower 48.

Representative Guttenberg referenced an email he received from a superintendent that alluded to removing the opt-out provision from the original bill. He asked for clarification.

Representative Gattis responded that she anticipated introducing a Committee Substitute (CS) that added an opt-out provision from the AMP tests but reconsidered since session was almost over and she did not want to bog down HB 80 with an issue over standardized testing. She announced that another bill was moving through the legislature that contained the opt-out provision.

Vice-Chair Saddler remarked that tests were important and valuable and that the SAT/ACT tests qualified a student for scholarships. He believed that the tests provided and independent assessment and if a school wanted the information it could pay for it. He stated that WorkKeys

was a valuable vocational aptitude test. He understood the concerns about the unfunded mandate and the limited time in an instructional day, and demands on the staff. He supported the legislation but encouraged students to take the tests as a "worthwhile" endeavor.

Co-Chair Thompson REOPENED public testimony.

DEENA PARAMO, SUPERINTENDENT, MAT-SU BOROUGH SCHOOL DISTRICT, PALMER (via teleconference), testified in support of the legislation. She believed that the students and their families should retain the ability to choose the college readiness or Work Keys tests that best suit their future needs and that the testing costs were not the school districts responsibility. She detailed that the testing companies and school district covered the fees associated with testing for students who could not afford them. She shared that the school district in partnership with the Rasmussen Foundation and the National Math and Science Initiative paid a student \$100. for successful completion of Advanced Placement (AP) testing. She asserted that school districts had a vested interest in seeing students succeed so that removing the revenue should not stop the district from taking the proper course of action. An unintended consequence of requiring tests had created a significant burden on school counselors and diverted a "disproportionate amount of their duties" to testing rather than counseling duties. She deemed that schools would continue to have ample opportunity to "facilitate" the tests without impacting instructional time with adoption of HB 80. She elaborated that each test had its own set of allowable accommodations that included students with IEP's (Individual Education Program). In a circumstance when the allowable and acceptable accommodations for each IEP were not followed the assessment became invalid. She opined that the Alaska Performance Scholarship (APS) should continue to require a college or career assessment in order to apply and accept funds from the state. She believed that if the state was willing to assist in paying for the testing, students should share in the responsibility through academic achievement and allowing themselves to be assessed on college and career measures. The districts should set a target and allow the students to demonstrate they can achieve success in order to have access to the funds for postsecondary testing instead of simply offering an entitlement. She reiterated support for the bill and wanted the districts to maintain "local control" to determine the

assessments and curriculum requirements that led to successful completion of a high school diploma. She added that districts received aggregate data on SAT/ACT compared to other schools districts in the state.

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Representative Gara referred to the AMP tests. He reported that the Department of Education and Early Development (DEED) contended that if AMP testing was moved to every four years a penalty would be imposed. He wondered what the penalty entailed.

Ms. Paramo answered that the penalty was possibly related to a waiver from the federal No Child Left Behind (NCLB) provisions. She revealed that the new federal Elementary and Secondary Education Act (ESEA) would give the state more accountability and the penalty may be negated at the federal level. She explained that the penalty could fall under Title One provisions that were funded entitlements granted to the state to carry out federal mandates.

Representative Gara opined that the tests were fake aptitude tests because scores were improved by completion of preparatory classes. He did not want to put students at a disadvantage on the SAT/ACT and was supportive of any preparatory coursework districts offered. He wondered if eliminating the testing requirements would also halt any preparatory coursework for students that the district offered.

Ms. Paramo responded that each district "most likely" provided preparatory courses that the students were interested in taking. She asked the committee if prior to passage of the mandate whether any individuals had approached the legislature requesting financial help for SAT/ACT fees. She offered that local districts provided support for the fees and believed that "the state's function" was not necessary.

Representative Gara asked whether removing funding for the assessment tests would cause the districts to eliminate any preparatory coursework a district may provide.

Ms. Paramo replied in the negative.

Co-Chair Thompson CLOSED public testimony.

Vice-Chair Saddler MOVED to REPORT HB 80 out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 80 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (EED).

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AT EASE

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RECONVENED

^DISCUSSION: STATE OF ALASKA SINGLE AUDIT, RECOMMENDATIONS FOR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, referred to the audit report provided to the legislature titled "Summary of: State of Alaska, Single Audit for the Fiscal Year Ended June 30, 2014" (copy on file). She reported that the single audit was performed every year as a requirement for receiving federal funds. Sixteen out of forty-three of the audits recommendations were directed to the Department of Health and Social Services (DHSS). She notified the committee that she was instructed to focus her discussion on the eight recommendations related to the Medicaid program.

Ms. Curtis directed attention to page II - 34 of the document and read the following recommendation [Recommendation No. 2014-011]:

DPA's (Division of Public Assistance) director should ensure the social security number (S SN) of Medicaid benefit applicants is verified prior to providing benefits.

Ms. Curtis pointed out that DHSS eligibility procedures included making a copy of the physical social security card for the case file or verifying the number through the Internal Revenue Service's (IRS) system prior to providing benefits. Eligibility technicians failed to verify the social security number (SSN) from either procedure for two out of twenty-five Medicaid applicants tested. She relayed that the department concurred with the recommendation. She moved to the next recommendation [Recommendation No. 2014-013] on page II - 37 and read the following:

The Division of Senior and Disabilities Services' (DSDS) director should continue to improve documentation procedures and provide oversight to ensure provider certification files are complete.

Ms. Curtis revealed that the recommendation was repeated from FY 2011. She read:

The incomplete files did not provide assurance that providers and employees were properly screened and adequately trained prior to certification, Although DSDS management developed procedures to improve documentation..

Ms. Curtis related that in response to the prior findings, DSDS instituted measures to remedy the situation but were not "effective" in FY 2014. The department concurred with the recommendation. She cited page II - 38 and read the following recommendation [Recommendation No. 2014-014]:

The Division of Behavioral Health's (DBH) director should continue to make improvements to ensure out-of-state residential psychiatric treatment center (RPTC) providers are paid in accordance with federal and state requirements and that rates are properly documented.

In FY 14. D1- ISS' Office of Rate Review management developed policies and procedures for documenting rate setting for RP)'C providers. However, procedures were not followed as designed indicating that additional improvements are needed.

Ms. Curtis stated that the recommendation was repeated.

Representative Gattis wondered how, in light of the proposed expansion, the department "would get it right this time."

Ms. Curtis replied that the Medicaid program was "extremely complex" and it was "reasonable" to expect some inadequacies. Federal audits required that even small findings must be reported. She conveyed that the recommendations were more of an "indication" of the need for improvements rather than an indictment "that the department was not getting it right." The recommendations were not necessarily related to expansion.

Representative Gattis felt that repeated recommendations from 2011 were an indication that the department was "still not getting it" after they were directed to make improvements. She understood that Medicaid was complicated.

Ms. Curtis answered that in the following year the auditors often discovered that "competing priorities" or "competing resources" prohibited the department from correcting a recommendation. She agreed that when a recommendation was not addressed after several years the situation was worrisome.

Representative Wilson wondered how often the Division of Legislative Audit revisited the issues identified in the audit.

Ms. Curtis responded that the particular issues were revisited annually. She explained that a federal requirement of the single audit directed DHSS to develop a "schedule of prior audit findings" that provided the current status of the recommendations. She stated that even if the division did not test a finding the following year the division followed the progress through the department's schedule of prior audits, which was attached to the current audit.

Representative Wilson noted that even though the department concurred with the findings in some cases issues remained after several years. She wondered whether, at some point the division required a third-party to institute the corrections or if the division further examined why the corrective procedures were not working.

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Ms. Curtis replied that the division would continue current year findings if they were important enough to include in the audit report. Typically the department addressed the recommendations in a timely manner. The division would not recommend a third-party; corrective action was usually attained by working with the commissioner.

Representative Wilson wondered whether a penalty was issued for non-compliance.

Ms. Curtis answered that the penalty came from the federal Centers for Medicare & Medicaid Services (CMS). The state

would be assessed "questioned costs." Some of the findings and recommendations had questioned costs and the federal government would decide whether the state would repay the monies.

Representative Wilson voiced that the state paid the penalties and not the department.

Ms. Curtis continued with recommendation 2014 on page II-38. She read:

"However, procedures were not followed as designed indicating that additional improvements are needed."

Ms. Curtis relayed that DHSS partially concurred with the recommendation. The department maintained that although documentation was not sufficient the rates were consistent with the regulations and did not result in overpayments. She addressed page II-42, [Recommendation NO. 2014-017] that stated:

DSDS' director should ensure provider employees receive timely, complete, and approved background clearances and that the information supporting the clearance is properly documented.

Ms. Curtis detailed that the recommendation was repeated and expressed concern because the finding was related to public safety. She read further:

In FY 14, 15 of 30 tested Medicaid26provider certification files were missing complete criminal history background checks.

According to DSDS management, due to the volume of providers and lack of staff resources, DSDS staff must rely on DHSS' Background Check Unit to ensure provider employees in provisional status are ultimately approved. By not following up on the status of the background checks, DSDS staff does not know if provider employees are ultimately approved to work with clients. Additionally, DSDS staff does not have procedures to ensure barred employees do not continue to work for providers.

Ms. Curtis reported that the department concurred with the findings. She moved to page II-44 [Recommendation No. 2014-018] and read:

The Medicaid and Health Care Policy (HCP) deputy commissioner and FMS assistant commissioner should improve procedures to ensure overpayments to Medicaid providers are refunded to the federal agency within the specified time frame.

Ms. Curtis commented that the recommendation was repeated from FY 2013. She continued to read:

In FY 13, an overpayment recovered from a Medicaid services provider was not refunded to the federal agency within one year. As a result, the federal agency overpaid the State \$73,181 thousand.

In FY 14, procedures were updated; however, upon review of the procedures it was noted that they do not address all types of overpayments or recoveries.

Ms. Curtis related that the division recommended that the deputy commissioner "continue to make the improvements and expand the procedures."

Representative Gara communicated that over the years the committee had asked DHSS to do more with less staff and funding and focus on providing services to clients. Therefore, he believed that the types of findings identified were bound to happen. He asserted that the department was performing well enough to qualify for bonus payments from the federal government. If the same test was applied to every department issues would be discovered. He pointed out that the Department of Environmental Conservation (DEC) admitted in public that it could not meet food safety standards. He did not understand why the review was taking place. In the midst of budget cuts agencies clearly lacked enough staff to perform administrative work.

Co-Chair Thompson believed it was a good way to determine what deficiencies were occurring in the departments and part of the process of reform. He suggested that an audit review should occur in every finance subcommittee for every department.

Representative Gara understood the rationale and commented that if the state would not provide adequate resources the departments would continue to fail.

Ms. Curtis continued on page II-45 with Recommendation Number 2014 - 019. She read:

DHSS' commissioner should take action to implement effective controls to ensure Medicaid claims are processed accurately and timely.

Ms. Curtis provided background information regarding recommendation no. 19 and informed the committee that it was one of three recommendations regarding the Alaska Health Enterprise (AHE) system.

During FY 14, DL 155 replaced its legacy Medicaid management information system. The Alaska Health Enterprise (AHE) system, also known as the Medicaid claims system, began operating October 1, 2013, and encountered significant widespread defects. DHSS and its system development contractor, Xerox were aware that the AHE system contained 44 defects at the time of implementation. Rather than delay implementation of the system until defects were addressed DHSS developed work around plans to manage the known system defects and they proceeded with implementation. Once implemented the known defects climbed to 546. While some of the defects were addressed during FY 14, at the end of August 2014 the system still had identified 451 unresolved defects.

Ms. Curtis delineated that as one of the three recommendations the division made to address the defects recommendation no. 19 addressed the federal compliance impacts of the system defects. She read further:

The AHE defects resulted in a material weakness in internal controls over the Medicaid and CHIP programs' allowable costs and eligibility compliance requirements. Due to the complexity of Medicaid program operations, we were unable to support an opinion that Medicaid and CHIP expenditures were in compliance with applicable laws and regulations without the ability to rely upon the ARE system's internal controls.

Representative Gattis wondered whether more money would have cured all of the defects.

Ms. Curtis deferred the question to DHSS.

Representative Gattis was uncertain that money would have cured the problem. She deduced that the problem was inherent with the software itself.

Ms. Curtis answered that the audit had not concluded that any amount of money was the source of the problem.

Vice-Chair Saddler asked for the definition of material weakness.

Ms. Curtis read the definition of material weakness:

"A deficiency in internal control exists when the design or operation of the control does not allow management or its employees in the normal course of business to detect or correct misstatements. A material weakness is a deficiency or combination of deficiencies in internal control such that there is a reasonable possibility that material misstatement of the entities financial statements, or in this case, material noncompliance with the federal law would not be prevented or detected on a timely basis."

Vice-Chair Saddler surmised that due to the material weakness not enough information existed to accurately assess the situation; good or bad.

Ms. Curtis acknowledged that the situation was not good, but not enough evidence could be obtained to support an opinion that deficiencies were material. The division qualified its opinion on federal compliance.

Vice-Chair Saddler wondered how many state programs, divisions and efforts resulted in material weaknesses.

Ms. Curtis answered that the condition was rare in a federal program.

Representative Gara maintained that he had never said that money could have fixed the Xerox problem. He knew of the commissioners' efforts to try and solve the problem for many years. He understood that currently claims were being paid in a timely manner, but that the department was still working on backlogs. He asked for verification.

Ms. Curtis did not know the current status of the Xerox problem. She continued on page II-46 and read:

We could not obtain sufficient evidence to determine the accuracy of the claims processed and conclude if eligibility requirements were applied correctly through the interface process.

Ms. Curtis read the areas of non-compliance:

Providers were paid for duplicate claims and were over and/or under paid due to the inaccurate claim eligibility and pricing. Identified Medicaid 3°federal questioned costs for duplicate claims totaled \$10,459. Likely questioned costs are higher for this deficiency.

- Claims were assigned incorrect funding codes. Four non-Medicaid recipients were identified and miscoded to Medicaid resulting in federal questioned costs of \$10,970. Additionally, approximately \$1.8 million was identified in claims that were incorrectly coded to CHIP. 31 Likely questioned costs are higher for this deficiency. Program errors related to the Medicare buy-in program caused incorrect payments to the federal agency including payments for ineligible recipients. Questioned costs were indeterminate.

The surveillance and utilization review program 32was ineffective due to unreliable system data and inadequate staffing. Staff was reassigned from the surveillance and utilization review program to help address system defect errors.

- Program integrity staff was unable to complete investigations and pursue collections of potential overpayments from providers due to unreliable system data.

Ms. Curtis continued and read:

Because of the defects the AI-IF system was not a fully operational or federally certified Medicaid system during FY 14. The AT IF system processed approximately \$ 1.1 billion in claim expenditures during FY 14 which resulted in \$658.8 million in federal revenues. AHE expenditures were material to the Medicaid and CHIP federal programs.

Ms. Curtis continued with the second recommendation regarding the AHE system that dealt with the financial impacts to the system. She read from Recommendation 2014-021 on page II-50:

DHSS' commissioner should work with Xerox to correct defects in the AHE system.

Because of the complexity of medical claims processing, we could not determine the extent of misreporting resulting from system defects. However, since the defects affected every area of AHE system operations and the amounts processed through the AHE system are material to the financial statements, the combination of the issues above represent a material weakness in internal control and could result in a material misstatement to the financial statements. The FY 14 General Fund and Governmental Activities audit opinions were qualified in recognition of the material weakness and a lack of ability to obtain adequate evidence.

Representative Guttenberg commented that the Xerox situation had been happening over a number of years. He wondered if the department had addressed the problem correctly, at adequate stages as the problems were identified. He observed that the Xerox system was impaired but the department suffered the blame. He thought the problem with the department was insufficient and untimely responses to the problems as they occurred. He asked for clarification.

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Ms. Curtis answered that the audit had not evaluated the department's response or system lifecycle development of the project and noted that it was not an audit objective. She offered that it was easier to determine decisions that should have been made in hindsight. She acknowledged that department staff had worked hard to fix the errors. She could not judge whether it was a lack of the staff's ability to resolve the problems.

Representative Guttenberg appreciated that the audit identified specific problems with the Xerox system and that the department moved past the initial problems and was working on "fixing" the system. Looking forward, the audit

did not contain specific measures the department could take. He voiced that he could only fault the department for lack of response to problems as they developed but wanted to hear from the department before he made that conclusion.

Ms. Curtis replied that audits looked backwards not forwards. She understood that committee members were interested in looking forward and wanted assurance from the department that the system was working. She stated that in FY 2015 the audit will ask DHSS if the system was certified by CMS, which indicated the system was operational. The audit would examine whether the system was subject to the "SSAE16 Report." She defined that SSAE16 stood for "Statement on Standards of at the Station Agreements" and was a report on internal controls of the system. The report was a condition of federal compliance and required for financial auditing, and part of the Xerox contract. She communicated that the division would regard the report "as evidence that the system was working."

Representative Gara cited recommendation 21 on page II-50 that directed the commissioner to work with Xerox to correct the defects in the AHE system. He suspected that a company like Xerox had a legal team advising the company not to admit to any liability. He deemed that the recommendation would be problematic for DHSS to carry out. He asked for the division's assessment.

Ms. Curtis responded that she did not have a view on the issue. She elaborated that audit recommendations were always addressed to the parties that could institute change. The department needed assistance from the contractor in order to address the problems thus, the recommendation was written to both parties.

Representative Guttenberg wondered about a difference between Xerox LLC. versus Xerox Corporation.

Ms. Curtis did not know the answer. She continued to address recommendation 21. She summarized that the division had to qualify the financial audit opinion due to the weakness and lack of ability to obtain adequate evidence. The audit listed issues relating to some of the financial aspects of system defects on page II 51. She read the following:

Suspended Claims Backlog: As of the end of August 2014, the AHE system had a significant backlog of 98,736 suspended claims totaling \$184 million. It is not possible to accurately identify the number and amount of claims suspended due to system defects as opposed to other non-system related reasons. Furthermore, it is not possible to determine how many of these claims will be deemed eligible and the amount paid until the claims are successfully processed by the ARE system. Since claims are not determined eligible and priced until processed by the ARE system, suspended claims delayed providers from being compensated for services provided.

- Interface Issues: The AHE system has interface problems with DHSS' eligibility information system, pharmacy benefit management system, third party liability system, and the Department of Commerce Community and Economic Development's occupational licensing database. As a result of these issues, risks exist that eligible members are not receiving services and ineligible members are inappropriately receiving services; pharmacy claims are being processed incorrectly; providers without licenses are receiving payments; and private insurance reimbursements are not being collected. While Xerox and DHCS personnel are performing manual procedures to mitigate system defects, considering the volume of claims, the manual procedures are only partially effective in identifying and correcting all errors.

- Payment Issues: The ARE system has numerous payment related deficiencies, including paying providers for duplicate claims, over and underpaying providers due to miscalculation of claim eligibility and pricing...

- Funding Source Issues: Claims are assigned funding sources by the ARE system which, among other things, are used to determine the percentage of federal reimbursement for which each claim is eligible. AHE system defects caused claims to be assigned incorrect codes which resulted in inaccurate federal reimbursement.

- Check-Write Issues: Claims processed and paid through the ARE system (check-writes) should be seamlessly interfaced with the state accounting system

(AKSAS). However during FY 14, the ARE interface files required manual adjustments to ensure they correctly interfaced AHE system activity with AKSAS.

Ms. Curtis cited the final finding, Recommendation No. 2014-022 on page II-53 [DHSS' commissioner should ensure financial activity is properly classified in AKSAS.] that addressed the audit adjustment that was necessary in order to properly report the department's advances in the state's financial statements. She read the following from page II - 53:

[DHSS incorrectly classified \$131 million in advance payments to Medicaid providers as FY 14 General Fund expenditures.] During FY 14, AHE system defects prevented some providers from receiving correct and timely reimbursement for provided services. (See Recommendation No. 2014-021.) To ensure Medicaid clients continued receiving services, DHSS management advanced funds to affected providers. The practice of advancing general funds without federal reimbursement caused DHSS to encounter expenditure authorization problems as the related appropriations were funded, in large part, by federal receipts. Based on an analysis by DHSS staff<sup>55</sup> that suspended claims supported the \$ 131 million in advances, DHSS obtained approval from the federal oversight agency to draw federal funds. Federal approval was initially made under the condition that the suspended claims would be successfully processed by the end of the federal fiscal year (FFY) and recorded correctly on the CMS-64 report. Ultimately, this was not possible, and CMS oversight officials allowed DHSS to retain approximately \$78 million of related federal revenues and report the advances on the CMS-64 report as expenditures for the FFY ended September 30, 2014, with the understanding that DHSS will make adjustments to correct inaccurate claiming in the future.

Ms. Curtis detailed that accounting rules prohibited the corrective measures from being reported as expenditures since expenses had not occurred and revenue was also not recognized. Therefore, the division made an audit adjustment in order to properly report the activity in the state's financial statements. The division was mandated to include an audit recommendation due to the size of the audit adjustment.

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Representative Gara believed one recommendation was missing. He acknowledged the hard work by the previous and current commissioners to correct the problems. He did not want to blame the department for problems caused by Xerox. He suggested a recommendation that the contractors would be fully liable for any damages for all new technology systems. He asserted that many problems developed with computer systems purchased by the state for numerous agencies. He spoke to overall damages the state would have to pay related to companies that were no longer in operation and the additional staff hires and staff time diverted to corrective measures. He thought that an "ironclad" liability provision was in order and that contractors should be fully liable for all damages in the future. He wondered if the division had looked into the issue.

Ms. Curtis answered in the negative. She noted that the division examined the contract to understand the requirements. She offered that the issue raised a larger issue. She indicated that the division had encountered similar situations where the corrective action to problems was to implement a new system and a smooth application rarely occurred. She advocated that the Legislative Budget and Audit Committee (LBA) analyze what central controls the state had in place to ensure that the system procurement process and development followed industry best practices.

Representative Gattis agreed and assured the division that in her capacity as Chair of the Department of Administration finance subcommittee she would examine the issue throughout the interim.

Representative Guttenberg shared that because of his experience as a juror he was aware of the necessity defense. He thought that the department's situation was warranted because "breaking the law to fix the problem was agreeable because there was nothing else to do." He related that the providers were on the verge of "going out of business" because payments were halted. He wondered if there was anything in general accounting procedures that addressed this type of situation. He wondered what appropriate course of action the state had to deal with similar audits that identified violations of accounting practices and when the federal government was not living up to accepted practices.

Ms. Curtis answered that general accounting practices would not specifically address the situation but looked at how the state reported the advances and financial activity it made. She did not believe federal regulations would address the issue either. She surmised that the accounting world would never address "holding parties accountable for actions that were or were not taken."

Representative Guttenberg wondered whether the state took appropriate reporting action on its financial statements.

Ms. Curtis replied that the financial statements were compiled and reported by the Division of Finance, DOA and included a footnote explaining the activity. She added that due to the suspended claims and backlog the division considered the situation a "contingency" for expenses incurred but not reported.

Representative Gara asked for verification that the audit applied through November, 2014.

Ms. Curtis answered in the affirmative. She elaborated that the division's field work lasted through November, 2014 and the period examined ended August, 2014.

SANA EFIRD, ASSISTANT COMMISSIONER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, made a general statement about how seriously the department took the audit findings. She relayed that she had been with the department for two years. She shared that former Commissioner Bill Streur prioritized the monitoring of federal funds and established a section called the "Federal Allocation Management Unit." The unit consisted of three accountants that worked with the large entitlement programs who were in charge of financial reporting, coordinated the audit findings and worked actively with Ms. Efird and all of the divisions on audit findings. The department viewed audit findings as a gauge for improvement. She notified the committee that the department received over 50 percent of the federal money coming into the state mostly through Medicaid, Title 4E (foster care and adoption program), and the Temporary Assistance for Native Families (TANF). However, DHSS dealt with over 220 other federal programs with requirements that changed on an annual basis. She detailed that the federal Office of Budget and Management (OMB) Circular 133 required the department to actively address the audit findings for

federal programs. She reiterated how seriously DHSS took audit findings and elaborated that she met with appropriate division directors and operations managers to address how improvements could be made.

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Representative Guttenberg was concerned about a finding on page II-42, Recommendation No. 17 related to eligibility background checks. He felt that the issue was potentially serious and wondered how the department rectified the issue.

DUANE MAYES, DIRECTOR, SENIOR BENEFITS SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), replied that the issue arose three years ago specific to the background check unit. The division had arduously worked on "the implementation of strengthened provider background check and oversight procedures.

MARGARET BRODIE, DIRECTOR, HEALTHCARE SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), elaborated the DHSS implemented an entirely new background check program. The database was working "extremely well." In the past individuals could remain in the system without a final clearance, but the new system terminated an individual without final clearance within three months.

Representative Guttenberg wondered whether she was referring to state or provider employees. He thought three months "seemed like a long time" if the wrong individual was in the system.

Ms. Brodie answered that she was referring to provider employees. She explained that three months was the maximum amount of time it could take and if fingerprints were available clearance occurred within one week.

Representative Guttenberg cautioned that the issue was important enough to monitor.

Representative Munoz spoke to page II - 51 [Recommendation No. 21] regarding the approximately 100,000 suspended claims totaling \$184 million and the identified risks concerning the interface issues. She wondered whether the possible threats to the system that had been identified had been ruled out, i.e., services to ineligible members and

payment to providers without licenses. She asked the department to speak to the issue.

Ms. Efird answered that under the direction of Commissioner Valerie Davidson vast improvements to the Medicaid Management Information System (MMIS) occurred since the audit. The department worked with Xerox to implement its corrective action plan.

Ms. Brodie added that the suspended backlog was based on billed charges and had included many duplicate claims. Providers had not received payment and were re-submitting claims. The dollar amount was much lower than reported. Currently, the suspended claims had been reduced to less than 10 percent and the majority were addressed within 30 days of submission. She elaborated that certain claims such as school based services were supposed to suspend until a check from the school district was received. She reported that problems with unlicensed providers had been fixed for over one year.

Representative Munoz asked the department to address the eligibility issue concerning individuals possibly inappropriately receiving services.

Ms. Brodie answered that issues regarding "eligibility subtype" were corrected.

Representative Munoz asked about the possibility of incorrectly processed pharmacy claims.

Ms. Brodie replied that the problem had been corrected.

Representative Munoz asked whether private insurance reimbursements were collected.

Ms. Brodie replied that part of the problem was corrected and expected to have the problem fully corrected on April 25, 2015.

Representative Gattis wondered what had occurred to move the corrective actions in the "right direction."

Ms. Efird answered that a number of factors attributed to the fixes. She referenced Representative Guttenberg's questions about whether the department respond adequately and in a timely way. She cited attachments found in Section

4, on page 60 of the full audit that contained the litigation documents. The documents outlined the steps the department engaged in prior to litigation. She agreed that former Commissioner Bill Struer had been working diligently to fix the problems with Xerox. She discussed that the department had realized that the claims were incorrectly processed by the system and were not electronically adjudicated. The top priority for DHSS was to pay providers since delivering healthcare was the primary responsibility of the department. The Division of Healthcare Services worked diligently and devised a way to pay providers and keep the healthcare system working. She stressed that like the previous commissioner, the current commissioner was also working diligently with Xerox and the providers. The department was enforcing Xerox's corrective action plan and holding them to specific deadlines for addressing corrective actions. The department expended a lot of resources and attention directed to fixing the problems.

Ms. Efird expressed uncertainty about whether more funding would have corrected the problem. Perhaps more resources would have helped the department address some of the issues. She suggested that the department seriously pursued corrective measures and that lack of resources was not an excuse. She shared that in areas with a large turnover of staff, weaknesses could have occurred. Training was very important and new hire training emphasized that policies and procedures must be explicitly followed. She suggested that at times, new staff missed the point and the department needed to diligently follow through and ensure policies and procedures were carried out.

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Representative Wilson asked whether a corrective plan was written for each recommendation.

Ms. Efird asked whether she was referring to Xerox's corrective plan and requested that Representative Wilson's clarify the question.

Representative Wilson wanted to know if there was a plan for Xerox and also for each recommendation. She further asked whether the department had to submit corrective plans to the audit division.

Ms. Efird responded in the affirmative. She reported that DHSS tracked the prior year's summary of audit findings.

Corrective plans were implemented and the department followed up with the divisions' progress in achieving the corrective measures.

Representative Wilson requested that the department provide a copy of the corrective measures recommended in the audit in order for the committee to follow up next year.

Ms. Efird explained that contained within the audit the department responded to each of the recommendations, which included the plan for each of the findings. The department subsequently met with each division to determine whether the plan was achieved.

Representative Wilson expected a more formal corrective process. She requested that Ms. Efird use the background check issue and provide an example.

Ms. Efird announced that that each response contained the plan the department followed and that no other formal "signed" plan existed. She referred to page II-44 of the audit and directed attention to the agency's response. She relayed that the department concurred with the recommendation and provided a plan to strengthen its processes and what corrective measures occurred in FY 2014. She read the following, "Early in SFY 2015 procedures were adopted and implemented for individuals with a barred status including a file documentation requirement." She noted that the response continued with the steps that were implemented in FY 2015. She would meet with the division director in the future to determine the status of the plan. The department will subsequently submit the summary of prior year audit. The current year's summary was included in Section 3 on page 41 of the full audit, which described what the department achieved for each finding to date. She exemplified that on page 341, as part of the summary, notice that corrective action was taken for a specific finding and was resolved.

Representative Wilson related from personal experience that childcare providers were required to have a corrective action form filled out and signed for even small issues. She thought the department should be held to the same standards of accountability.

Representative Gara asked for verification that "the Xerox debacle diverted a lot of staff time."

Ms. Efird agreed with the statement.

Representative Gara stated that the department was in litigation with Xerox. He deduced that one of the things that slowed down the corrective process was that Xerox was slow to admit its mistakes and was "recalcitrant" in fixing mistakes they would not admit to.

Ms. Efird deferred the answer to the Commissioner or Ms. Brodie.

Representative Gara referred to claims that dated back years due to the broken Xerox system. He wondered if the department had reached the point where it was confident it could pay claims going forward.

Ms. Efird replied in the affirmative. She elaborated that the department had reached out to a number of providers in order to make sure payments were received and continued to work closely with providers. She shared statements from providers stating support for the corrective actions by the department and shared that she had a number of emails and letters from providers claiming that the system was working. She offered that 90 percent of current suspended claims were less than 60 days old and 65 percent were less than 30 days old. She expressed confidence that the system was working well.

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Representative Munoz referred to provider testimony that the system was comparable to the one it had replaced. She asked whether the goal was to have a new system that was comparable or more efficient.

Ms. Efird answered that the provider had made the point that the new system was comparable to the old system with regards to timely payments. She stressed that the new system was expected to accomplish much more than the previous system.

Co-Chair Thompson mentioned that 70,000 new medical billing codes would come online in July or October of 2015. He wondered whether plans were being developed to accommodate the changes and prevent the department from falling behind again.

Ms. Brodie answered that the department was on track with the "ICD 10" coding system. She elaborated that with all of the issues with the Xerox system the department was aware that it "could not afford to get off track" with accommodations for the new codes. The department hired a long-term non-permanent employee to manage the implementation. She relayed that specific criteria from CMS was being met and the department "was on target."

Representative Wilson asked who had been hired.

Ms. Brodie replied that the employee was a long-term non-permanent employee.

Representative Wilson wondered whether the hire was an expense to the state because Xerox did not accomplish what was expected.

Ms. Brodie responded in the negative. She believed that the department would have needed the staff due to the complexity of the issue.

Representative Guttenberg cited recommendation No. 11 on page II - 34 that related to SSN verification. He wondered whether the staff was not trained or supervised well.

RON KREHER, ACTING DIRECTOR, DIVISION OF PUBLIC ASSISTANCE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, answered that the problem could be attributed to a number of issues; staff turnover was high, a training issue, and given the volume of cases processed it could have been an oversight on behalf of an eligibility technician. He communicated that the oversight was slightly unusual because typically an application could not pass through other screens because the SSN was a mandatory field in the eligibility information system. Often times the documents were viewed and not copied, but verification was mandatorily documented in the system. He did not have the detail on the particular instances mentioned in the findings so he could not identify the missing step in the process.

Representative Guttenberg verified that the technician could not move on to the next screen in the application without verifying the SSN.

Mr. Kreher answered in the affirmative.

Representative Guttenberg surmised that if the test figure was 2 out of 25 and was multiplied by the number of beneficiaries the number of mistakes would be "significant."

Mr. Kreher answered in the affirmative but felt that if a significant number of SSN's were not verified it would have resulted in a larger number of incorrect samples.

Co-Chair Thompson addressed the state's IRIS (Integrated Resource Information System) conversion. He wondered if any problems were anticipated.

Ms. Brodie could only speak to the Division of Enterprise Technology Services (DOA). She voiced that, "if IRIS worked the department would be able to interface with the system."

Vice-Chair Saddler referred to page II-55, Recommendation No. 2014-023 [DHSS' commissioner should distribute funds in accordance with state statutes and regulations.] that related to the appropriation of \$1.175 million for suicide prevention. He asked for the distinction between a sponsorship and a grant.

Ms. Efird replied that grant funding was appropriated through the grants line in the budget. She explained the when utilizing grants, the grantee was providing services for the department and reports and programmatic updates were required. The funds identified in the finding were unrestricted federal dollars earned by the department for meeting specific criteria related to the children's health insurance program [SCHIP]. She elaborated that the unrestricted funding was appropriated to the department through the contractual line. She cited Attachment 3 in Section 4 on page 85 of the audit, and referred to AS. 18.05, Administration of Public Health and Related Laws and relayed that the statute defined the department's role to promote public health. She elaborated that the funding was provided to the department to support the mission of the department. The department had policies and procedures outlining what was appropriate for sponsorships. The department used the aforementioned guidelines to distribute the funding.

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Vice-Chair Saddler asked how the department earned money from the SCHIP program.

Ms. Efird responded that a performance bonus section under the federal program awarded the funding. She elucidated that every state had access to bonus funding based on a lengthy list of criteria.

Vice-Chair Saddler asked how much performance bonus money the department had received.

Ms. Efird replied that DHSS received approximately \$6 million over the past three years and currently had slightly over \$4 million left. She added that the department had maintained carry forward authority.

Vice-Chair Saddler asked how the department planned to use the money.

Ms. Efird answered that the department expended the funds for suicide prevention, homeless outreach, and for internal use. She explained that the Division of Juvenile Justice (DJJ) had an incident in Kenai related to inadequate safety needs. The department wanted to use some of the funding to respond to the safety needs identified to shore up the facility.

Vice-Chair Saddler asked if there were restrictions on how the department could spend the money.

Ms. Efird replied in the negative.

Representative Munoz cited the fact that 44 defects were identified when the Medicaid claims system was implemented and climbed to 546 defects. She wondered how many known defects currently existed in the system.

Ms. Brodie replied that currently just over 90 defects were identified in the system.

Representative Munoz wondered when the CMS certification was expected.

Ms. Brodie replied that the department expected to receive CMS certification in the first quarter of 2016.

Ms. Efird pointed to the department's Attachment 2 in Section 4 on page 84 of the full audit. She relayed that the attachment included a letter, dated October 2013 from Xerox that claimed the system was up and operational.

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Representative Munoz requested a list of the known defects.

Representative Pruitt referred to Recommendation No. 23. He stated that the audit disagreed that the funding was not appropriated correctly. He asserted that the department had a "slush fund" and he "hated the concept." He wondered why DHSS disagreed with the audit finding and why the legislature should not have the authority to determine how the bonus money was spent. He was concerned that the department was skirting the legislative process.

Ms. Efird answered that the legislature had appropriated the money. She reminded the committee that the funding was appropriated to the department in the budget's contractual line through the SCHIP bonus as unrestricted federal dollars.

Representative Pruitt voiced that he would reconsider the appropriation next year.

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ADJOURNMENT

3:31:08 PM

The meeting was adjourned at 3:31 p.m.